

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1437 be amended to read as follows:

- 1 Page 3, between lines 27 and 28, begin a new paragraph and insert:
- 2 **"(d) Notwithstanding subsection (a)(4), the standards applied to**
- 3 **a court alcohol and drug program or a drug court that provides**
- 4 **services to a forensic diversion program under IC 11-12-3.7 must**
- 5 **be the standards established under IC 12-23-14 or IC 12-23-14.5."**
- 6 Page 3, delete lines 28 through 42.
- 7 Page 4, delete lines 1 through 17.
- 8 Page 5, line 8, delete "." and insert **"instead of or in addition to**
- 9 **incarceration."**
- 10 Page 6, line 1, after "(20)" insert **"Arson (IC 35-43-1-1) as a Class**
- 11 **A or Class B felony.**
- 12 **(21) Possession, use, or manufacture of a weapon of mass**
- 13 **destruction (IC 35-47-12-1).**
- 14 **(22) Terroristic mischief (IC 35-47-12-3) as a Class B felony.**
- 15 **(23) Hijacking or disrupting an aircraft (IC 35-47-6-1.6).**
- 16 **(24) A violation of IC 35-47.5 (Controlled explosives) as a**
- 17 **Class A or Class B felony.**
- 18 **(25)".**
- 19 Page 6, line 4, delete "(21)" and insert "(26)".
- 20 Page 6, line 4, delete "crime" and insert **"crimes"**.
- 21 Page 6, line 12, delete "." and insert **"instead of or in addition to**
- 22 **incarceration."**
- 23 Page 6, line 26, delete "and".
- 24 Page 6, line 27, after "(3)" insert:
- 25 **"treatment providers certified by the division of mental**
- 26 **health and addiction under IC 12-23-1-6 or**
- 27 **IC 12-21-2-3(a)(5); and**
- 28 **(4)".**
- 29 Page 6, line 38, delete "program must be provided by an entity

certified by the division of" and insert **"program:**

(1) for addictions must be provided by an entity that is certified by the division of mental health and addiction under IC 12-23-1-6; or

(2) for mental health must be provided by an entity that is:

(A) certified by the division of mental health and addiction under IC 12-21-2-3(a)(5);

(B) accredited by an accrediting body approved by the division of mental health and addiction; or

(C) licensed to provide mental health services under IC 25."

Page 6, delete line 39.

Page 7, line 2, after "treatment" insert **"or an order for an evaluation"**.

Page 7, line 30, delete "with expertise in substance abuse treatment." and insert **"who is certified or licensed as a substance abuse professional."**

Page 7, line 31, delete "with expertise in mental health treatment." and insert **"who is certified or licensed as a mental health professional."**

(9) An individual with expertise in substance abuse or mental health treatment."

Page 8, line 23, after "conviction" insert **"and dismiss the charges"**.

Page 8, line 24, delete "based upon" and insert **"after considering"**.

Page 8, line 31, after "(d)" insert **"Before an eligible person may be admitted to a facility under the control of the division of mental health and addiction, the individual must be committed to the facility under IC 12-26.**

(e)".

Page 8, line 38, delete "(e) If, based on" and insert **"(f) If, after considering"**.

Page 9, line 3, after "conviction" insert **"and dismiss the charges"**.

Page 9, line 20, delete "all or part of".

Page 9, line 36, delete "based on" and insert **"after considering"**.

Page 9, line 42, delete "based on the recommendation" and insert **"after considering the report"**.

Page 10, line 12, delete "based on" and insert **"after considering"**.

Page 12, between lines 11 and 12, begin a new paragraph and insert:
"SECTION 9. IC 35-40-5-5, AS ADDED BY P.L.139-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. A victim has the right to be heard at any proceeding involving ~~sentence or sentencing~~, a postconviction release decision, or a pre-conviction release decision under a forensic diversion program.

SECTION 10. IC 35-40-8-1, AS ADDED BY P.L.139-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. Upon request of a victim, a criminal court shall notify the victim of any probation **or forensic diversion** revocation disposition proceeding or proceeding in which the court is asked to terminate the probation **or forensic diversion** of a person who is convicted of a crime against the victim.

SECTION 11. IC 35-40-8-2, AS ADDED BY P.L.139-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. Upon request of a victim, a criminal court shall notify the victim of a modification of the terms of probation **or a forensic diversion program** of a person convicted of a crime against the victim only if:

- (1) the modification will substantially affect the person's contact with or safety of the victim; or
- (2) the modification affects the person's restitution or confinement status."

Page 16, line 7, after "(8)" insert "**The secretary of family and social services, or the secretary's designee.**

(9)".

Page 16, line 9, delete "(9)" and insert "**(10)".**

Page 16, line 11, delete "(10)" and insert "**(11)".**

Page 16, line 11, delete "illness" and insert "**illness,**".

Page 16, line 12, delete "or addictive disorders,"

Page 16, line 13, delete "(11)" and insert "**(12) One (1) person with experience in treating addictive disorders, appointed by the governor.**

(13)".

Page 16, delete line 16, begin a new line block indented and insert: "**(14) One (1) law enforcement officer with experience in programs that provide alternatives to incarceration for persons with mental illness or addictive disorders.**".

Page 16, delete line 17.

Renumber all SECTIONS consecutively.

(Reference is to EHB 1437 as printed February 20, 2004.)

Senator LONG

